

Further, it is well-settled that a mediated settlement agreement constitutes a valid contract between the settling parties which is "governed by general principles of contract law." *McClure Lumber Co. v. Helmsman Constr., Inc.*, 160 N.C.App. 190, 197, 585 S.E.2d 234, 238 (2003) (quoting *Chappell v. Roth*, 353 N.C. 690, 692, 548 S.E.2d 499, 500 (2001)). In other words, the Mediated Settlement Agreement and the Release are enforceable if there is mutual assent to the material terms. In this case there is no question but that the material terms of the Mediated Settlement Agreement and also the Release reflect the material terms of the agreement between the parties.

In the instant action, counsel for the parties specifically negotiated the term for the deadline of the settlement payment. There was back-and-forth negotiation on this specific term and eventually the plaintiff acquiesced to the defendant's proposed deadline. The parties mutually assented to this term as well as all of the other terms of the Mediated Settlement Agreement and the Release. As of the date of this motion, the plaintiff have still not complied with their obligations under the Mediated Settlement Agreement or Release.

In the meantime, counsel for the plaintiff has expended time calling and writing the defense counsel seeking to resolve this matter without the necessity of filing this Motion. On May 29, 2014, the parties received a Show Cause Order in this matter seeking a dismissal in this case. The plaintiff's counsel unnecessarily will be forced to expend more time responding to this Motion

WHEREFORE, the plaintiff prays that the Court enter an Order reopening the case and an Order requiring the Defendant to comply with their Agreements immediately and that the Court award plaintiff's reasonable attorneys fees that were incurred as a result of this motion.

This the 29 day of May, 2014.

LAW OFFICES OF JEANNE H. WASHBURN

By: /s/ Jeanne Washburn
JEANNE H. WASHBURN
N.C. Bar No.: 21092
Attorneys for Plaintiff
3737 Glenwood Avenue, Suite 100
Raleigh, North Carolina 27612
Telephone: (919) 821-7555
Facsimile: (919) 573-1993
Email: Jeanne.H.Washburn@gmail.com

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing pleading was served on the following parties to this action by: () hand delivery () by federal express (X) by depositing a copy of the same in the United States Mail postage prepaid and addressed to:

Robert J. Morris
Smith Anderson
2300 Wells Fargo Capitol Center
150 Fayetteville St.
Raleigh, NC 27601

Brian T. Maye
Adler Murphy & McQueen
20 S. Clark St. Ste. 2500
Chicago, Ill 60603

This the 29 day of May, 2014.

LAW OFFICES OF JEANNE H. WASHBURN

By: /s/ Jeanne H. Washburn
JEANNE H. WASHBURN
N.C. Bar No.: 21092
Attorneys for Plaintiff
3737 Glenwood Avenue, Suite 100
Raleigh, North Carolina 27612
Telephone: (919) 821-7555
Facsimile: (919) 573-1893
Email: Jeanne.H.Washburn@gmail.com